

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEPHEN ROBERT COLQUITT,

Defendant-Appellant.

UNPUBLISHED
December 2, 2003

No. 242365
Oakland Circuit Court
LC No. 02-182332-FH

Before: Cooper, P.J., and Markey and Meter, JJ.

MEMORANDUM.

Defendant was charged with possession of marijuana with intent to deliver, MCL 333.7401(2)(d)(iii), and driving without a license, MCL 257.311. Following a jury trial, he was convicted of possession of marijuana, MCL 333.7403(2)(d), and driving without a license. The trial court denied his motion for deferred sentencing under MCL 333.7411 and sentenced him to one year's probation. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the trial court abused its discretion in denying his request for deferred sentencing under § 7411. We review a trial court's sentencing decision for an abuse of discretion. *People v Garza*, 246 Mich App 251, 256; 631 NW2d 764 (2001). The trial court abuses its discretion when it imposes a sentence that is disproportionate to the seriousness of the circumstances surrounding the offense and the offender. *Id.*

If a person who does not have any prior controlled substance convictions pleads guilty to or is found guilty of certain controlled substance offenses including possession of marijuana, the court may place the person on probation without entering a judgment of guilt. If the terms and conditions of probation are fulfilled, the case will be dismissed. MCL 333.7411(1). "The apparent purpose of the statute is to grant trial courts discretion to provide an ultimately noncriminal sanction for first-time offenders who commit less serious drug crimes." *People v Ware*, 239 Mich App 437, 441; 608 NW2d 94 (2000).

The record showed that defendant was a nineteen-year-old college student without any prior convictions. Nonetheless, this clearly was not his first offense. The arresting officer testified at trial that defendant told him that he had bought marijuana on a regular basis, specifically, more than "fifty times over the past year-and-a-half." The presentence investigator reported that defendant told her that he "started using marijuana when he was eighteen years old.

He used on a daily basis until the instant offense occurred.” Under the circumstances, the trial court did not abuse its discretion when it denied deferred sentencing.

Affirmed.

/s/ Jessica R. Cooper

/s/ Jane E. Markey

/s/ Patrick M. Meter